

ESTTA Tracking number: **ESTTA673485**

Filing date: **05/21/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	THE HUNDREDS IS HUGE, INC.
Granted to Date of previous extension	05/23/2015
Address	3150 East 46th Street Vernon, CA 90058 UNITED STATES
Attorney information	Jorge Arciniega McDermott Will & Emery LLP 2049 Century Park East, Suite 3800 Los Angeles, CA 90067-3218 UNITED STATES jarciniega@mwe.com, ehourizadeh@mwe.com Phone:310-551-9306

Applicant Information

Application No	86430460	Publication date	03/24/2015
Opposition Filing Date	05/21/2015	Opposition Period Ends	05/23/2015
Applicant	Big City Fashions Inc. 7456 S. Cottage Grove Ave Chicago, IL 60619 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Caps; Shirts; Shoes; Shorts


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3322159	Application Date	08/18/2006
Registration Date	10/30/2007	Foreign Priority Date	NONE
Word Mark	THE HUNDREDS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/05/01 First Use In Commerce: 2005/05/01 Clothing, namely, pants, socks, belts, [blazers, blouses,] coats, [dresses,] footwear, [halter tops,] hats, jackets, jeans, jerseys, [jumpers, jumpsuits, overalls,] pullovers, shirts, shorts,[skirts, slacks, sport coats,] sweatshirts, T-shirts and tank tops

U.S. Registration No.	4180159	Application Date	11/22/2010
Registration Date	07/24/2012	Foreign Priority Date	NONE
Word Mark	THE HUNDREDS		
Design Mark			
Description of Mark	The mark consists of stylized words "THE HUNDREDS" with a cartoon of a bomb about to explode and sparks or flames are coming out of the top of the bomb.		
Goods/Services	Class 014. First use: First Use: 2008/06/30 First Use In Commerce: 2008/06/30 Watches		

Attachments	76664823#TMSN.png(bytes) 85182483#TMSN.png(bytes) THE HUNDREDS.pdf(13345 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/
Name	Ellie Hourizadeh
Date	05/21/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE HUNDREDS IS HUGE, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
BIG CITY FASHIONS INC.)	
)	
Applicant.)	

RE: Application No. 86430460
MARK: ALL HUNDREDS
Applicant: Big City Fashions Inc.
Filed: October 21, 2014
Published: March 24, 2015

NOTICE OF OPPOSITION

The Hundreds is Huge, Inc. (“Opposer”), by and through its attorneys, hereby states that it will be damaged by registration of the mark ALL HUNDREDS covered by U.S. Application Serial No. 86430460 (“Application”), filed by Big City Fashions Inc. (“Applicant”), and hereby opposes registration of same.

The grounds for opposition are as follows:

1. Opposer is the owner of the well-known streetwear brand THE HUNDREDS. Opposer’s THE HUNDREDS mark and its founders have been covered in numerous news and media reports and articles for their innovative and hugely popular streetwear clothing and brand.
2. Opposer has been using its THE HUNDREDS mark in the United States since at least as early as 2005, and such use is continuous and nationwide.
3. Opposer owns the following trademark registrations for THE HUNDREDS design marks:

(a) Reg. No. 3,322,159, an incontestable registration for THE HUNDREDS design mark for goods in International Class 25; and

(b) Reg. No. 4,180,159 for THE HUNDREDS design mark for goods in International Class 14.¹

4. Opposer has established rights in its THE HUNDREDS Marks through long, continuous and widespread use of the marks in commerce in the United States, as well as through extensive marketing of goods with THE HUNDREDS Marks.

5. Opposer has expended substantial resources promoting its THE HUNDREDS Marks. In doing so, Opposer has acquired substantial goodwill in its THE HUNDREDS Marks.

6. Opposer's THE HUNDREDS Marks are famous and widely recognized by consumers nationwide and in many other countries. The public identifies Opposer as the source of, or as being in some way associated with, goods and services that bear Opposer's THE HUNDREDS Marks.

7. On October 21, 2014, Applicant filed the Application to register the mark ALL HUNDREDS. The Application was published on March 24, 2015, and covers "caps, shirts, shoes and shorts" in International Class 25.

8. Upon information and belief, the Application is an attempt to capitalize on the goodwill and tremendous name recognition of Opposer's THE HUNDREDS Marks. A substantial number of consumers who see the name ALL HUNDREDS are likely to think that

¹ Opposer's marks are collectively referred to as "THE HUNDREDS Marks".

the name is affiliated with Opposer, or that the mark and its related goods are sponsored by or otherwise affiliated with Opposer.

9. A substantial number of other consumers will likely perceive Applicant's use of the mark ALL HUNDREDS as a dilution of Opposer's THE HUNDREDS Marks.

10. If the Application matures to registration, the registration of the ALL HUNDREDS mark will interfere with Opposer's use of its THE HUNDREDS Marks, will likely lead to consumer confusion, and will likely cause irreparable damage to the goodwill and consumer recognition that Opposer has built up in its THE HUNDREDS Marks.

11. If the Application matures to registration, it will also dilute Opposer's famous THE HUNDREDS Marks and lessen the ability of those marks to distinguish Opposer as the source of the goods offered under the name THE HUNDREDS.

WHEREFORE, Opposer prays that the Application be rejected, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

The requisite filing fee prescribed by 37 C.F.R. § 2.6(a)(17) should be charged to Deposit Account No. 501946. If there are any additional fees due in connection with this Notice of Opposition, they should also be charged to Deposit Account No. 501946, and any excess fees should be credited to same. All correspondence relating to this matter should be directed to the undersigned attorneys for Opposer.

Respectfully submitted,

Dated: May 21, 2015

By: /Ellie Hourizadeh
Ellie Hourizadeh
Attorneys for
The Hundreds is Huge, Inc.

MCDERMOTT WILL & EMERY LLP
2049 Century Park East, 38th Floor
Los Angeles, CA 90067-3208
Telephone: (310) 551-9321

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF OPPOSITION** upon Applicant by depositing one copy thereof via First Class Mail, in the United States mail, postage prepaid, on **May 21, 2015** addressed as follows:

Mr. Carl Virgin
President
Big City Fashions Inc.
7456 S. Cottage Grove Ave
Chicago, Illinois 60619

By: /Ellie Hourizadeh/
Ellie Hourizadeh